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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,710	12/14/2001	Jan Bertrem	CM2147M	9841

27752 7590 03/03/2004

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CINCINNATI, OH 45224

EXAMINER
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MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/020,710

Applicant(s)

BERTREM ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 20, 2004 has been entered.
2. This Office action is in response to Applicant's amendment filed January 20, 2004. Applicant has amended claims 1-4, 16 and 19. New claims 21-30 have been added. Currently, claims 1-4 and 7-30 remain pending in the application.
3. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 6 and 12.
4. The objection to the amendment filed June 12, 2003 under 35 U.S.C. 132 for introducing new matter into the disclosure is withdrawn in view of applicant's amendments and remarks.

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5. The rejection of claims 1-4 and 7-19 under 35 U.S.C. 112, first paragraph, is withdrawn in view of applicant's amendments and remarks.
6. The rejection of claims 1-4 and 7-19 under 35 U.S.C. 112, second paragraph, for containing the phrase "less than about" is maintained for the reasons of record.
7. The rejection of claims 1-4, 7-10 and 16-19 under 35 U.S.C. 102(a) as being anticipated by Pace et al, EP 919,610 A1, is maintained for the reasons of record.
8. The rejection of claims 1-4, 7-10, 12 and 19 under 35 U.S.C. 102(b) as being anticipated by Willey et al, WO 97/33963, is maintained for the reasons of record.
9. The rejection of claims 1-4, 7-10, 12, 16 and 18 under 35 U.S.C. 102(b) as being anticipated by Fusiak et al, WO 95/00611, is maintained for the reasons of record.
10. The rejection of claims 1-4, 7-10, 12, 16-17 and 19 under 35 U.S.C. 102(b) as being anticipated by Aronson et al, U.S. Patent No. 4,368,146, is maintained for the reasons of record.
11. The rejection of claims 1-4, 7-14 and 19 under 35 U.S.C. 102(b) as being anticipated by Spruyt et al, WO 97/03180, is maintained for the reasons of record.

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12. The rejection of claims 11-12 under 35 U.S.C. 103(a) as being unpatentable over Pace et al, EP 919,610 A1, is maintained for the reasons of record.

13. The rejection of claims 1-4, 7, 9-11, 13 and 19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/020,600, is maintained for the reasons of record.

### **NEW GROUNDS OF REJECTION**

#### ***Claim Rejections - 35 USC § 112***

14. Claims 20-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

15. The phrase "less than about" in instant claim 20 renders the claim vague and indefinite. The phrase "less than about" renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "less than about". It is unclear what values are encompassed by the phrase "less than about". The examiner suggests that this phrase should be changed to "less than". "Claims reciting "less than about" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the

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term about.” **See MPEP 2173.05(b)**. Appropriate correction and/or clarification is required.

16. Instant claims 21-30 are rejected to under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem.

***Claim Rejections - 35 USC § 102***

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

18. Claims 1-4 and 7-30 are rejected under 35 U.S.C. 102(a) as being anticipated by Gordon et al, EP 859,045.

Gordon et al, EP 859,045, discloses a liquid hard surface cleaning composition comprising 0.1-5% by weight of a polyalkoxylene glycol (see page 3, lines 50-54), 0.001-20% by weight of a vinylpyrrolidone copolymer (see page 4, lines 51-54), and 0.1-20% by weight of adjunct ingredients, such as surfactants, chelants, solvents, and radical scavengers (see page 8, lines 14-21), per the requirements of the instant invention. It is further taught by Gordon et al that the composition is used to treat hard surfaces, such as the exterior surface of a car (see page 17, lines 40-45), and that the composition may be applied via a spray dispenser (see page 16, line 53-page 17, line 14). Specifically, note Examples B, F and M, which disclose hard surface cleaning

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compositions containing the above mentioned ingredients at a pH of 7.5-8.5, per the requirements of the instant invention. Although Gordon et al is silent with respect to the "modifying the surface to render it hydrophilic, providing a contact angle between water and the surface of less than about 50 degrees" and "adhering to the surface for at least 1-5 rinses" limitations recited in the instant claims, the examiner asserts that the Polyquat 11 and PVP K60 polymers disclosed by Gordon et al would inherently meet these limitations, absent a showing otherwise. Therefore, instant claims 1-4 and 7-30 are anticipated by Gordon et al, EP 859,045 A1.

### ***Response to Arguments***

19. Applicant's arguments filed January 20, 2004 have been fully considered but they are not persuasive.

Applicant continues to argue that the phrase "less than about" recited in the instant claims do not render the claims indefinite. However, the examiner asserts that this phrase renders the claim vague and indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "less than about". It is unclear what values are encompassed by the phrase "less than about". Furthermore, the examiner asserts that since the instant claims that contain the phrase "less than about" have been rejected by prior art, that the examiner has met the requirements of ***MPEP 2173.05(b)***.

Applicant argues that Pace et al, EP 919,610 A1, Willey et al, WO 97/33963, Fusiak et al, WO 95/00611, Aronson et al, U.S. Patent No. 4,368,146, and Spruyt et al,

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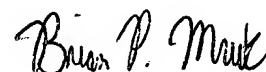
WO 97/03180 do not teach that the cleaning composition is for cleaning the exterior surface of a vehicle. However, the examiner asserts that the phrases "A cleaning composition for cleaning exterior surfaces of a vehicle," and "wherein said polymer modifies at least a portion of an exterior surface of a vehicle" in instant claims 1 and 2 sets forth an intended use of the composition without adding structure. Therefore, the examiner respectfully maintains that the preambles of instant claims 1 and 2 do not breath life and meaning into the claims, and thus are not accorded any patentable weight, in accordance with **MPEP 2111.02**.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Brian Mruk  
February 24, 2004



Brian P. Mruk  
Primary Examiner  
Tech Center 1700